



Practitioner's Docket No. \_\_\_\_\_

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Michael J. Docy, et. al.

Application No.: 09/ 774,765

Group No.: 2855

Filed: January 30, 2001

Examiner: Michael T. Cygan

For: Fuel Tank Tester

☐ \*Patent No.:

Issue Date:

Reexamination No.:

*\*NOTE: Preferably also insert inventor's name and invention title.*

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

**TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(c))**

**Identification of Person(s) Making This Disclaimer**

I, James A. Hudak  
(type or print names of all inventors or assigns or name of attorney signing disclaimer)

(a) represent that I am

☐ an inventor (applicant) of this invention.

☐ an assignee of this invention.

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

**37 C.F.R. § 1.8(a)**

**37 C.F.R. § 1.10 \***

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

James A. Hudak  
Signature

Date: 8/3/04

James A. Hudak  
(type or print name of person certifying)

*\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

(Terminal Disclaimer to Obviate a Double Patenting Rejection [9-4]—page 1 of 5)

08/06/2004 ZIUHAR1 00000009 09774765 55.00 DP  
01 FC:2814

**WARNING:** "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, [g]overnment agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56, § 1490, M.P.E.P., 7th Edition.

☐ a representative authorized to sign on behalf of the assignee identified below.

☐ A statement under 37 C.F.R. § 3.73(b) is attached.

**WARNING:** See the above "WARNING."

☒ the attorney of record for this invention.

**NOTE:** The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56. See also § 1490, M.P.E.P., 7th Edition.

**IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMANT**  
(if applicable)

The assignee is

Name of assignee Hickok Incorporated

Address of assignee 10514 Dupont Avenue

Cleveland, Ohio 44108

Title of disclaimant authorized to sign on behalf of assignee \_\_\_\_\_

Attorney of Record

**EXTENT OF DISCLAIMANT'S INTEREST**

The extent of the interest in this invention that the disclaimant owns is:

☒ the whole of this invention.

☐ a sectional interest in this invention, as follows:

**NOTE:** Disclaimers from the whole interest must be filed.

(state the exact interest of the disclaimant)

The disclaimant(s) is/are:

☐ the applicant(s)

☒ the assignee(s)

**RECORDAL OF ASSIGNMENT IN PTO**

*(if applicable)*

☒ The assignment was recorded on 1/30/01

Reel 011515

Frame 0187

☐ Authorization for recordal of the assignment is separately attached.

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET" or  
☐ FORM PTO 1595 is also attached.

**ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION**

*(if applicable)*

☐ Attached is a STATEMENT UNDER 37 C.F.R. § 3.73(b) establishing the right of the assignee to take action in this case.

*NOTE: Insert the appropriate page 3.*

**DISCLAIMER**  
**(Obviousness-Type Double Patenting Rejection Over A Prior Patent)**

Petitioner(s) hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of Patent No. 6,298,712 B1 as presently shortened by any terminal disclaimer. Petitioner(s) hereby agree(s) that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent forming the basis of the double patenting rejection, namely, Patent No.: \_\_\_\_\_, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

**DISCLAIMER FEE (37 C.F.R. § 1.20(d))**

- ☐ Other than a small entity — fee \$110.00
- ☒ Small entity — fee \$55.00
  - ☐ Small entity statement attached
  - ☒ Small entity statement already filed
    - ☒ in patent application 09 / 774,765  
on 1/30/01 (Date)

## FEE PAYMENT

- ☒ Fee already paid.
- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 55.00
- ☐ Authorization is hereby made to charge the amount of \$ \_\_\_\_\_
- ☐ to Deposit Account No. \_\_\_\_\_
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

- ☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Date: August 3, 2004

Reg. No.: 27,340

Customer No.:

  
Signature of disclaimant

  
SIGNATURE OF PRACTITIONER OF RECORD

James A. Hudak  
(type or print name of practitioner)  
29425 Chagrin Boulevard  
Suite #304  
P.O. Address

Cleveland, Ohio 44122-4602